JOINT BUDGET COMMITTEE

INTERIM SUPPLEMENTAL BUDGET REQUESTS FY 2019-20

OFFICE OF THE GOVERNOR

PREPARED BY:
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INTERIM SUPPLEMENTAL REQUEST

COLORADO DIGITAL SERVICES

	REQUEST	RECOMMENDATION
TOTAL	**$1,130,848**	**$0**
FTE	6.2	0.0
General Fund	1,130,848	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]	**NO**
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	**YES**

Explanation: JBC staff and the Office of the Governor disagree that this request meets the interim supplemental criteria of Section 24-75-111, C.R.S. See the "Staff Analysis: Staff Recommendation" section of this document for more information.

DEPARTMENT REQUEST: The Governor's Office of Information Technology (OIT) seeks $1,130,848 General Fund and 6.2 FTE for FY 2019-20 to add seven staff positions to implement a Colorado Digital Services program. OIT indicates that the program will "enrich Colorado's technology ecosystem by providing a pipeline of top technology talent incentivized by a sense of civic duty and focused on solving problems and building citizen-facing digital services benefitting Coloradans."

STAFF RECOMMENDATION: Staff recommends that the Joint Budget Committee deny OIT's request for three reasons:

- The request does not the meet the statutory criteria for an interim supplemental because augmenting OIT's existing staff with a Colorado Digital Services program is not an "unforeseen circumstance" arising while the General Assembly is not in session;
- The roles and responsibilities for the seven staff positions requested to be added to create a Colorado Digital Services program lack clarity, as do the projects that this program would work on in FY 2019-20;
- OIT has the constitutional flexibility to hire, release, and/or restructure employees within existing appropriations to meet the evolving needs and desires of a new gubernatorial administration without the constraints of the state personnel system.

STAFF ANALYSIS:
Background
As a result of the technological rescue of healthcare.gov, the federal government implemented the United States Digital Services (USDS) program in 2014 as an elite technology unit housed within the Executive Office of the President to provide consultation services to federal agencies on information technology. The unit's objectives are to:

- Transform critical, public-facing services;
- Expand the use of common platforms, services, and tools;
- Rethink how the Government buys digital services; and
- Bring top technical talent into civic service.

USDS achieves these objectives by deploying small, responsive groups of designers, engineers, product managers, and bureaucracy specialists to work with civil servants in applying best practices and new approaches to solve technology problems. The unit is staffed with experienced technology experts that are brought into government, primarily from the private sector, for a "tour of duty." Tours typically last between six months and two years, with a maximum length of four years. USDS submits a report to Congress each year detailing its projects and accomplishments.

Colorado's Use of USDS
During 2019, OIT and the Governor's Office brought in a team of volunteer private-sector technical experts from USDS as a pilot project to assess the HRWorks project and to determine if the USDS model would work for state government in Colorado. As a reminder, HRWorks is an information system under development by OIT and the Department of Personnel that will provide a single application for human resources management functions for state government (time and leave tracking, payroll process, performance and personnel management, and employee and position information). The project has encountered a series of procurement and technical issues that have resulted in significant delays in system implementation.

Working free-of-charge, the USDS team provided the state with a series of recommended steps to solve the issues that have plagued the HRWorks project. These recommendations were included in a presentation to the Joint Technology Committee by OIT and the Department of Personnel on April 10, 2019. The final assessment for the HRWorks project was completed by the USDS team in late May 2019.

After reviewing the USDS' work on the pilot project, OIT and the Governor's Office deemed the project a success because "the breadth of private and public sector technical expertise provided many strategic "lessons learned" opportunities that the state can leverage."

Implementing a Colorado Digital Services Program
OIT wishes to implement a USDS-like program for state government called the Colorado Digital Services (CDS) program. CDS would rely on term-limited (one to two years) state employees with technical expertise collaborating with career state employees to work on large and complex information technology projects, information technology projects that are struggling to move forward, and state government programs in need of new information technology solutions. OIT anticipates that CDS would deliver the following benefits:

- Save the state government time and money by providing valuable support to get delayed projects back on track;
- Deliver cost avoidance and innovation to state government and all Coloradans;
- Improve the experience that Coloradans have when interfacing with various government services; and
- Grow the knowledge and talent of the state's workforce.

Costs Associated with Implementing the Colorado Digital Services Program
OIT requests $1,130,848 General Fund and 6.2 FTE for FY 2019-20 to implement the CDS program. The funding would be used to add seven Information Technology Manager staff positions at an average annual salary of $124,632. OIT anticipates that the seven staff will not be hired immediately in the fiscal year, and prorated the request, accordingly, using an estimated August 1, 2019 start date. The number of staff needed was established by the Governor's Office and the CDS pilot project volunteers. This staffing level is modeled after the USDS program and other states that have implemented similar programs (California, Massachusetts, and Georgia). Note, if the CDS program delivers the expected benefits, OIT states that it is possible that additional employees may be needed, however it is too early to know if and how many additional employees would be needed in future budget cycles.

The performance of the CDS program would be measured by OIT using the following indicators:

- Decreased number of information technology projects that go over schedule and over budget;
- Reduced time to deliver information technology systems (as compared to a traditional timeline without a CDS program);
- Increased number of new information technology initiatives and solutions;
- Increased customer/end user satisfaction; and
- Increased job satisfaction and retention of state government information technology workforce.

OIT indicates that it has not identified specific projects that would benefit from the services of the CDS program, but signals that it will coordinate with the Governor's Office to identify and prioritize projects for the CDS program to work on if this funding request is approved. The agency notes that the types of projects that most benefit from the expertise of the unit are:

- Modernization efforts (e.g., Trails);
- Building citizen-facing digital services (e.g., MyColorado);
- Contract management and procurement reform (e.g., agile procurements and evaluations);
- Firefighting (e.g., ransomware attack, site reliability, data breach, etc); and
- Discovery sprints (e.g., HRWorks).

Staff Recommendation
Staff recommends that the Joint Budget Committee deny OIT's request for three reasons:

1 Statutory Criteria. After consulting with the Office of Legislative Legal Services, it is staff's opinion that this request does not the meet the statutory criteria for an interim supplemental. Specifically, Section 24-75-111 (1)(b), C.R.S. indicates that the controller may allow agency to make an expenditure in excess of the appropriated amount for a fiscal year if the overexpenditure

is necessary due to "unforeseen circumstances" arising while the General Assembly is not meeting in regular or special session during which such overexpenditure can be legislatively addressed. This request states that it meets this statutory criteria "because it is part of the new Governor's vision for the state."

OIT's rationale does not meet the statutory criteria as an "unforeseen circumstance" because Governor Polis was sworn into office on January 8, 2019. The General Assembly met in the 2019 regular session from January 4, 2019 through May 3, 2019, providing the agency with several months to submit a budget request to the Joint Budget Committee to align with the new Governor's vision of the state using the statutory authority provided via Section 2-3-208 (2)(b)(II), C.R.S. (allows for late budget amendment requests for the upcoming fiscal year) or Section 2-3-208 (3)(b)(II), C.R.S. (allows for late supplemental requests for the current fiscal year).

Additionally, this request indicates that it meets the statutory criteria as an "unforeseen circumstance" because the new information obtained through the implementation of the HRWorks pilot project, which concluded in late May, "could not have been addressed through the standard budget process since the new Governor was not in office when decision items and budget amendments for FY 2019-20 were submitted." While the CDS program did not complete its work until after the General Assembly had adjourned sine die, the CDS program was underway during the time when the General Assembly was meeting in a regular session. This indicates that OIT was aware of the possibility of using private-sector technical experts during the 2019 legislative session and, thus, does not qualify the need for funding for the CDS program as an "unforeseen circumstance."

2   Programmatic Clarity. One of staff's criteria for recommending a program for funding to the Joint Budget Committee is the level of clarity on how the program will be implemented. The greater the specificity, the greater the General Assembly's ability to measure a program's performance and prioritize it for funding or defunding in future budget cycles. In this request, the roles and responsibilities for the staff positions that would constitute the CDS program lack the clarity needed for staff to recommend funding for FY 2019-20 through an interim supplemental.

Specifically, OIT has not yet developed job descriptions for the employees associated with the CDS program. The agency states that "the roles and responsibilities of any given CDS staff member will vary tremendously and be dependent on the needs of the specific project to which they are assigned." However, as stated previously, OIT indicates that it has not identified specific projects that would benefit from the services of CDS, but points out that it will coordinate with the Governor's Office to identify and prioritize projects for CDS to work on if this funding request is approved.

3   Existing Flexibility. OIT has the constitutional flexibility to hire, release, and/or restructure employees within existing appropriations to meet the evolving needs and desires of a new gubernatorial administration without the constraints of the state personnel system. Specifically, Article XII, Section 13(2)(a) of the Colorado Constitution conveys that the state personnel system shall comprise all appointive public officers and employees of the state, except (among others) employees in the Office of the Governor (including OIT).

Given that this request represents only 0.4 percent of OIT's FY 2019-20 of $316.7 million total funds, it is staff's opinion that the agency can use its constitutionally-authorized staffing flexibility to restructure its existing workforce to incorporate the CDS program so that it can fulfill the new Governor's vision for the state within existing appropriations.

Relatedly, the benefits of implementing the CDS program (e.g. deliver cost avoidance and innovation to state government and all Coloradans) and the programmatic performance indicators for measuring the CDS program's success (e.g. reduced time to deliver information technology systems), as outlined previously in this document, closely align with the legislative intent and statutory provisions associated with centralizing state agency information technology resources in OIT. In requesting funds to implement a CDS program that has overlap with OIT in terms of high-level responsibilities and goals, it is staff's opinion that the new gubernatorial administration has concerns that OIT is not structured in a manner that consistently fulfills its statutory obligations and meets or exceeds the legislative intent of centralization. This reinforces the argument that OIT could use its constitutionally-authorized staffing flexibility to replace existing staff with the staff associated with the CDS program not only to keep expenditures within existing appropriations, but also to meet the new administration's vision for delivering information technology services.

If the Joint Budget Committee denies this interim supplemental funding request, OIT suggests that it will not be able to immediately build out the CDS program and the executive branch will continue to implement information technology projects just as it does today. When asked what its next steps would be if this request is denied, OIT expresses that it "intends on submitting a budget request for FY 2020-21 to cover the ongoing costs of the CDS" and that "should that be funded, there would be an 11 month delay in implementing the CDS program."

Staff agrees that denying this request would delay implementation if OIT does not use its constitutional flexibility to restructure its existing staff to incorporate CDS within existing appropriations. The delay could be partially mitigated, however, if OIT resubmits this request on January 2, 2020 as a regular supplemental for FY 2019-20 and it is approved by the Joint Budget Committee, enacted by the General Assembly, and signed into law by the Governor. This request, while not meeting the statutory criteria for an interim supplemental, would qualify for consideration as a regular supplemental. The Committee's criteria to consider regular supplemental requests includes allowances for circumstances, such as the existence of data that was not available when the original appropriation was made, that apply to this submittal.

On a final note, if the Joint Budget Committee chooses to authorize the requested overexpenditure, staff recommends that it be funded at a level of $975,526 General Fund for FY 2019-20, not the $1,130,848 General Fund OIT requests. It is the General Assembly's policy to provide funds for centrally appropriated line items for increased staffing decision items only if the staffing increase is over 20.0 FTE. This request does not meet that threshold, thus the centrally appropriated costs should not be included.